

At the outset, the Examiner has disregarded one of the most fundamental tenets of patent law, that claim limitations are to be interpreted according to the meaning provided in Applicants' specification. While other sources may be consulted in understanding ambiguous terms, it is impermissible to defy a plain meaning provided in the specification by substituting a second, contradictory meaning. The person skilled in the art is deemed to read a claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire specification. Phillips v. AWH Corp., 75 USPQ 2d 1321 (Fed. Cir. 2005). The Examiner is required to construe the claims in the same manner as they would be by persons of ordinary skill in the art. Id., 75 USPQ 2d at 1326, 1329.

The Examiner has misconstrued the phrase “charged electrospun microfibers or droplets” as reciting only a process limitation. While the word “electrospun” taken alone is a process limitation, the word “charged” is not, nor is the collective phrase “charged electrospun microfibers or droplets”. Instead, it is clear from Applicants' specification that the word “charged” refers to a property of the microfibers or droplets that results from the electrospinning process.

As stated on page 2, line 24 – 25 of Applicants' specification:

In another aspect of the invention the coalesced elastomers are applied to the substrate via electrospinning as charged microfibers onto a grounded or oppositely charged substrate (underline added).

As further stated on page 13, lines 5 – 7:

Also, in some embodiments the charged elastomer solution may be presented as droplets rather than as microfibers if such application is found to be efficacious (underline added).

It is evident from these passages that the word “charged” refers to a property or state of being, instead of a process step. In other words, the claimed retractive composite web includes coalesced elastomeric stripes “comprising charged electrospun microfibers or droplets” (meaning microfibers or droplets that are in a charged state). No other interpretation of the word “charged” can be derived from Applicants' specification.

a) Claim Rejection Based on Desai In View Of Uitenbrock.

The rejection of Claims 1-12, 14-35, 43, 46, 54 and 57-59 under 35 U.S.C. §103(a) as obvious over U.S. Publication 2003/0088228 ("Desai") in view of U.S. Patent 6,827,806 ("Uitenbrock") is respectfully traversed. The Examiner also cited U.S. Publication 2003/0111166, which has the same disclosure as U.S. Patent 6,827,806.

The Examiner agrees that Desai does not disclose the limitation in Claims 1 and 33 calling for "coalesced elastomeric stripes comprising charged electrospun microfibers or droplets." However, the Examiner refused to consider this limitation based on the wrong assumption that it is only a process limitation (Office Action, pages 6 and 7). As explained above, the word "charged" is a product limitation that cannot be disregarded when evaluating the claims for patentability.

Uitenbrock is cited as disclosing elastomeric adhesive stripes (36, 38) to join a topsheet to a coversheet in an absorbent article such as a diaper (Office Action, page 6). The elastomeric adhesive may be a latex and may be provided by spraying. However, Uitenbrock does not disclose coalesced elastomeric stripes comprising charged electrospun microfibers or droplets. Neither of the references discloses this limitation.

As explained previously Applicants' invention uses electrospinning to provide charged electrospun microfibers or droplets. The electrical charge helps the microfiber droplets coalesce to form elastomeric stripes, and to remain coalesced. The electrical charge also helps the microfibers or droplets (coalesced as stripes) to bond to the substrate, and remain bound to the substrate.

Accordingly, no claim is obvious. This claim rejection should be withdrawn.

b) Claim Rejection Based on Desai In View Of Uitenbrock And Mleziva

The rejection of Claim 40 under 35 U.S.C. §103(a) as obvious over Desai in view of Uitenbrock and U.S. Patent 6,057,024 ("Mleziva") is respectfully traversed. Claim 40 depends from Claim 1 and is patentable for at least the same reasons, explained above. Mleziva is cited as disclosing elastomeric material in the form of microfibers (Office Action, page 8). However, Mleziva does not disclose coalesced elastomeric stripes

comprising charged electrospun microfibres or droplets. None of the references discloses this feature.

Accordingly, Claim 40 is not obvious. This claim rejection should be withdrawn.

c) Conclusion

As explained above, the rejection of every claim hinges on the Examiner's assumption that the phrase "charged electrospun microfibers or droplets" is only a process limitation. To the contrary, the word "charged" (when interpreted according to the specification) indicates that the microfibers or droplets are in a charged state, which is a product limitation. A person skilled in the art would understand (based on the specification) that this is the intended meaning. No reference discloses the product limitation.

Applicants believe that the claims are in condition for allowance. If the Examiner detects any unresolved issues, then Applicants' attorney respectfully requests a telephone call from the Examiner, and a telephone interview.

Respectfully submitted,



Maxwell J. Petersen
Registration No. 32,772

Pauley Petersen & Erickson
2800 West Higgins Road; Suite 365
Hoffman Estates, Illinois 60169
TEL (847) 490-1400
FAX (847) 490-1403